

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ANTHONY MICHAEL GIOIOSA, SR.,

Case No. 2:21-cv-00469-RFB-DJA

Petitioner,

ORDER

v.

UNITED STATES DISTRICT COURT,

Respondent.

Anthony Michael Gioiosa, Sr. has submitted a *pro se* habeas corpus petition that appears to be captioned for state district court. He has used a state-court form and no judgment of conviction is listed. It is thus unclear in which court Gioiosa intended to file a petition. Further, he has failed to submit an application to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

The Court further notes that the proper respondent for a § 2254 habeas corpus petition is the state official who has custody of the petitioner (generally the warden of the institution where petitioner is held). Rule 2(b) of the Rules Governing Section 2254 Cases. Gioiosa has named United States District Court as respondent.

This federal petition is dismissed without prejudice to petitioner filing a new federal habeas petition, on the court's form, in a new case with a new case number and a new, completed application to proceed *in forma pauperis* with the required financial information or the \$5.00 filing fee.

1 **IT IS THEREFORE ORDERED** that the Clerk detach and **file** the petition (ECF No.
2 1-1).

3 **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice as
4 improperly commenced.

5 **IT IS FURTHER ORDERED** that a certificate of appealability is denied.

6 **IT IS FURTHER ORDERED** that the Clerk send one copy of the court's 28 U.S.C.
7 § 2254 Petition for a Writ of Habeas Corpus form, and one copy of the application to
8 proceed in forma pauperis, with instructions.

9 **IT IS FURTHER ORDERED** that the Clerk enter judgment accordingly and close
10 this case.

11
12 DATED: 13 April 2021.

13
14 
15 _____
16 RICHARD F. BOULWARE, II
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28